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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.06.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S. RAMATHILAGAM

C.M.A.No.2167 of 2015

N.Karthikeyan ... Appellant/Petitioner

Vs.

The Managing Director,
Metropolitan Transport Corporation,
Annasalai,
Chennai-600 002 ... Respondent/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 27.10.2014 and made in M.A.C.T.O.P.No.545 of 2013 on the file of the Motor Accident Claims Tribunal and III Court of Small Causes, Chennai.

For Appellant : M/s.A.Subadra
for M/s.M.Malar

For Respondent : Mr.S.Sivakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award and decree dated 27.10.2014 and made in M.A.C.T.O.P.No.545 of 2013 on the file of the Motor Accident Claims Tribunal and III Court of Small Causes, Chennai.

2. The appellant herein is the claimant in M.C.O.P.No.545 of 2013, on the file of the learned III Court of Small Causes, Chennai. He filed the above said MCOP claiming compensation of Rs.10,00,000/- for the injuries sustained by him in a road accident that took place on 22.11.2012, at about 10.30 hrs, when the petitioner was riding his TVS Apache motor cycle bearing registration No.TN-10-AC-0785 at anna Salai, opposite of Saidapet Panagal Maligai, from south to north, at that time a MTC bus bearing registration No.TN.01.N.8202, came in a very rash and negligent manner and hit behind the petitioner's motor cycle, thereby the petitioner sustained grievous head injuries.

3. The Tribunal considering the pleadings, oral and documentary evidences adduced on the side of the injured held that the accident occurred due to the rash and negligent



driving of the driver of the bus belonging to the respondent / Metropolitan Transport Corporation and directed the respondent / Metropolitan Transport Corporation to pay the compensation of Rs.1,24,500/- to the claimant. Tribunal awarded a sum of Rs.1,24,500/- under the following heads:

S.No	Description	Amount awarded by Tribunal
1.	Loss of Income	Rs.20,000/-
2.	Transport to Hospital	Rs.7,000/-
3.	Estra nourishment	Rs.7,000/-
4.	Damage to clothing	Rs.500/-
5.	pain and suffering	Rs.30,000/-
6.	disability at 30% at Rs.2,000/- per percentage	Rs.60,000/-
	Total	Rs.1,24,500/-

4. Before the Tribunal, on the side of the claimant, witnesses P.W.1 and P.W.2 were examined and following exhibits were marked:

- (a)Ex.P1 : Copy of FIR in Cr.No.701 of 2012
- (b)Ex.P2 : Discharge Summary
- (c)Ex.P3 : Medical Bills
- (d)Ex.P4 : Doctor Certificate
- (e)Ex.P5 : Salary Certificate
- (f)Ex.P6 : Copy of driving licence
- (g)Ex.P7 : X-ray
- (h)Ex.P8 : Disability Certificate

5.On the side of the Respondent / Metropolitan Transport Corporation, Witness R.W.1 was examined and no exhibits were marked.

6.Heard both sides and perused the documents available on record.

7. The learned counsel for the appellant submitted that due to the very rash and negligent on the part of the driver of the MTC bus, who hit behind the petitioner's motor cycle, thereby the petitioner sustained grievous head injuries. The injured was taken to Government General Hospital and took treatment at Apollo Specialty Hospital from 22.11.2012 to 28.11.2012 as in-patient. He further submitted that the accident was occurred only by the driver of the bus. The learned counsel further submitted that the tribunal has not awarded any compensation for medical expenses. The Tribunal awarded only Rs.20,000/- for loss of income, which is not a reasonable one.

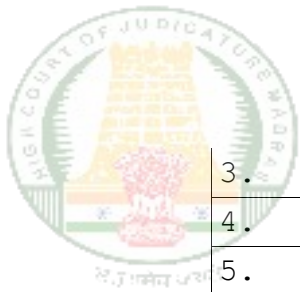


8. The learned counsel appearing for the respondent/ Metropolitan Transport Corporation on the other hand contended that the petitioner himself is responsible for the accident. He further submitted that there is no proof for occupation or income of the injured and in the absence of any details, the Tribunal erroneously fixed the monthly income without any basis and on the whole, the sum awarded by the Tribunal under other heads is excessive. He further submitted that the tribunal ought not have reduced the disability assessed by the doctor and ought to have applied the multiplier method by considering the nature of injuries and disability.

9. On perusal of records, it is seen that particulars have been furnished by the appellant regarding his age, income and occupation and the same are taken into consideration by the Tribunal and this Court also concurs with the findings of the Tribunal. It is seen that the injured was aged about 22 years at the time of accident and he was working as a Medical Coder and earned a sum of Rs.16,853/- per month. It is observed from the evidence of doctor that the disability sustained by the claimant has been stated as 45%. However, the tribunal has considered the disability only at 30% and awarded Rs.2,000/- per percentage (30 X Rs.2,000 = 60,000/-) which is proper. The tribunal has considered the loss of earning during the period of treatment and awarded a sum of Rs.20,000/- which is also very meager. Considering the nature of injuries suffered by the appellant and taking treatment as inpatient for 6 days, definitely, he would not be able to move and do his work, thereby he would suffered loss of income atleast for a period of one month. Hence the sum taken by the tribunal at Rs.2,000/- per percentage is enhanced to sum of Rs.3,000/- per percentage and calculated the loss of income for one month of Rs.90,000/- (30 x 3000 = 90,000/-) The Tribunal has not granted any compensation towards attender charges, have a sum of Rs.10,000/- is awarded to the appellant towards attender charges.

10. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal	Amount awarded by this Court
1.	Loss of Income	Rs.20,000/-	Rs.90,000/- (30 x 3000)
2.	Transport to Hospital	Rs.7,000/-	Rs.7,000/-



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3.	Estra nourishment	Rs.7,000/-	Rs.7,000/-
4.	Damage to clothing	Rs.500/-	Rs.500/-
5.	pain and suffering	Rs.30,000/-	Rs.30,000/-
6.	disability at 30% at Rs.2,000/- per percentage	Rs.60,000/-	Rs.60,000/-
7.	attender charges	--	Rs.10,000/-
	Total	Rs.1,24,500/-	Rs.2,04,500/-

11. In the result the Civil Miscellaneous Appeal is partly allowed and the award passed by the Tribunal to the tune of Rs.1,24,500/- is enhanced to Rs.2,04,500/-. No costs

12.The respondent / Metropolitan Transport Corporation is directed to deposit the entire amount awarded by this Court along with interest and costs before the Tribunal within a period of four weeks from the date of receipt of a copy of this order, after deducting the amount already deposited, if any. The interest awarded by the Tribunal at the rate of 7.5% per annum is unaltered. On such deposit being made, the Tribunal shall transfer the amount to the claimant's bank account through NEFT or RTGS within a period of one week thereon. The appellant/claimant is directed to pay the requisite court fee, if any within a period of two weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

tta

To

1.The III Court of Small Causes,
(Motor Accident Claims Tribunal),
Chennai.

2.The Section Officer,
VR Section, High Court, Madras.

+1cc to M/s.M.Malar, Advocate SR.No.47595

+1cc to Mr.S.Sivakumar, Advocate SR.No.48690

C.M.A.No.2167 of 2015

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